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FILED

2011 SE. 29 P 3:33

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CRB

EQUAL EMPLOYMENT OPPORTUNITY
 COMMISSION,

Plaintiff,

v.

DOLE FOOD COMPANY, INC., d/b/a
 DOLE FRESH VEGETABLE CO.,

Defendant.

Civil Action No. **11-4827**COMPLAINTCivil Rights - Employment
Discrimination

DEMAND FOR JURY TRIAL

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Charging Party, Gustavo Pizano-Bribiesca (hereinafter "Charging Party"), who was adversely affected by such practices. As alleged with greater particularity in paragraph 9 below, Defendant Dole Food Company, Inc. d/b/a Dole Fresh Vegetable Co. (Defendant Employer), discriminated against Charging Party Pizano-Bribiesca, a qualified individual with a disability, by refusing him to return to work after an epileptic seizure and not accommodating his disability.

COMPLAINT FOR DISCRIMINATION

Equal Employment Opportunity Commission
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JURISDICTION AND VENUE

1
2 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,
3 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 107(a)
4 of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which
5 incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of
6 1964 ("Title VII"), 42 U.S.C. § 2000e-5(f)(1) and (3) and pursuant to Section 102 of the
7 Civil Rights Act of 1991, 42 U.S.C. § 1981a.

8 2. The employment practices alleged to be unlawful were committed within
9 the State of California, specifically Monterey County, within the jurisdiction of the
10 United States District Court for the Northern District of California.

INTRA-DISTRICT ASSIGNMENT

11
12 3. This action is appropriate for assignment to the San Jose Division of this
13 Court because the alleged unlawful actions were committed in Monterey County.

PARTIES

14
15 4. Plaintiff EEOC is the agency of the United States of America charged with
16 the administration, interpretation and enforcement of Title I of the ADA and is
17 expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. §
18 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII, 42 U.S.C.
19 § 2000e-5(f)(1) and (3).

20 5. Defendant Employer is a California corporation, headquartered in
21 Alameda County, doing business at all relevant times in the State of California, in the
22 County of Monterey, as relevant here, and has continuously had at least 15 employees.

23 6. At all relevant times, Defendant Employer has continuously been engaged
24 in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. §
25 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by
26 reference Section 701(g) and (h) of Title VII, 42 U.S.C. § 2000e(g) and (h).

27 7. At all relevant times, Defendant Employer has been a covered entity under
28 Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

ADA VIOLATION

8. More than thirty days prior to the institution of this lawsuit, Charging Party Pizano-Bribiesca filed a charge with Plaintiff EEOC alleging violations of Title I of the ADA by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

9. Since at least on or about May 20, 2010, Defendant Employer has engaged in unlawful employment practices at its Monterey, California, facility in violation of Section 102 of Title I of the ADA, 42 U.S.C. § 12112(a), by *inter alia*, refusing Charging Party Pizano-Bribiesca the opportunity to return to work after an epileptic seizure. Instead, on or about May 20, 2010, Defendant Employer unreasonably refused to allow Charging Party Pizano-Bribiesca to return to work despite Charging Party Pizano-Bribiesca having quickly recovered from his seizure and being able to resume working. This constituted a failure to accommodate by refusing to allow Charging Party to return to work as soon as he recovered after a seizure.

10. The effect of the actions complained of in paragraph 9 above has been to deprive Charging Party Pizano-Bribiesca of equal employment opportunities and otherwise adversely affect his status as an employee because of his disability or perceived disability.

11. The unlawful employment practices complained of in paragraph 9 above were intentional.

12. The unlawful employment practices complained of in paragraph 9 above were done with malice or with reckless indifference to the federally protected rights of Charging Party Pizano-Bribiesca.

PRAYER FOR RELIEF

Wherefore, the EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from failing

1 to accommodate qualified employees' disabilities, unreasonably limiting the
2 employment of individuals with disabilities because of their disabilities, and engaging
3 in any other employment practice which discriminates on the basis of disability.

4 B. Order Defendant Employer to institute and carry out policies, practices,
5 and programs which provide equal employment opportunities for qualified individuals
6 with disabilities, and which eradicate the effects of its past and present unlawful
7 employment practices.

8 C. Order Defendant Employer to make whole Charging Party Pizano-
9 Bribiesca by providing appropriate back pay and benefits with prejudgment interest,
10 and other affirmative relief necessary to eradicate the effects of its unlawful
11 employment practices, including but not limited to front pay in amounts to be
12 determined at trial.

13 D. Order Defendant Employer to make whole Charging Party Pizano-
14 Bribiesca by providing compensation for past and future pecuniary losses resulting
15 from the unlawful employment practices described above in an amount to be
16 determined at trial.

17 E. Order Defendant Employer to make whole Charging Party Pizano-
18 Bribiesca by providing compensation for past and future nonpecuniary losses resulting
19 from the unlawful practices complained of above including, but not limited to,
20 emotional pain and suffering, mental anguish, inconvenience, loss of enjoyment of life,
21 and humiliation, in amounts to be determined at trial.

22 F. Order Defendant Employer to pay Charging Party Pizano-Bribiesca
23 punitive damages for the malicious and reckless conduct described above, in amounts to
24 be determined at trial.

25 G. Grant such further relief as the Court may deem just and proper in the
26 public interest.

27 H. Award the EEOC its costs of this action.

28 //

DEMAND FOR JURY TRIAL

Pursuant to the provisions of Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a jury trial.

Dated: __September 29, 2011__

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